

ST 01-0009-GIL 01/25/2001 TELECOMMUNICATIONS EXCISE TAX

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. 35 ILCS 630/3 and 630/4. (This is a GIL.)

January 25, 2001

Dear Xxxxx:

This letter is in response to your letter that we received in our office on December 7, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I represent a non-profit, tax-exempt 501 (c)(3) organization. I have been told that even though ORGANIZATION is tax exempt, it is still required to pay a number of telephone related taxes. An example of taxes which we pay are as follows:

- Illinois tax @ 7%
- Municipal tax @5%
- Federal excise tax
- Federal USG combined
- Federal TRS surcharge
- Utility Users Tax
- Telephone infra maintenance fee
- Chicago Utility users tax
- Chicago city gross receipts tax
- USA Federal universal Svc fund surcharge
- Illinois taxes on roaming charges - non federal

I realize that some of these are not state related. However, there are a lot and I'm just trying to understand.

Could you forward a Letter Ruling to me.

Regarding non-profit organizations, please be advised that not all such organizations are sales tax exempt under Illinois law. To be exempt, a non-profit organization must generally be organized

and operated exclusively for charitable, religious or educational purposes. An organization that qualifies as exclusively religious, charitable, or educational can apply to the Illinois Department of Revenue to obtain a tax exemption identification number (an "E" number). These numbers establish that the Department recognizes said organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. See 86 Ill. Adm. Code 130.2007.

The E numbers can only be used to make tax-free purchases of tangible personal property under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act and the Service Use Tax Act. Please refer to 35 ILCS 105/3-5(4), 110/2(3), 115/2(c), 120/1g, and 120/2-5(11).

The Telecommunications Excise Tax Act imposes a tax on the act or privilege of originating or receiving intrastate or interstate telecommunications by persons in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers by such persons, 35 ILCS 630/3 and 4. Telecommunications subject to the tax include roaming charges that constitute special charges or fees for system customers moving between cellular zones. The exemptions provided in the Retailers' Occupation Tax Act, and related Tax Acts (generally referred to as "sales tax," see above) are not incorporated by reference into the Telecommunications Excise Tax Act. Therefore, exemptions are not available from the Telecommunications Excise Tax unless they are specifically included in the Telecommunications Excise Tax Act. The Act does not authorize an exemption for a purchase of telecommunications by holders of tax exemption identification numbers (E Numbers) in Illinois. Such purchases are fully subject to tax. The only purchasers who can purchase telecommunications tax-free are the State and Federal governments, State Universities created by statute, and wholly owned corporate subsidiaries purchasing from the parent or other wholly owned subsidiary. See Section 2 of the Act (35 ILCS 630/2).

Effective January 1, 1998, the State Telecommunication Infrastructure Maintenance Fee Act (TIMF Act, see 35 ILCS 635/1 et seq.) provides for the imposition of a fee on all telecommunications retailers' gross charges at the rate of 0.5%. Section 15 of the TIMF Act provides for an optional infrastructure maintenance fee which telecommunications retailers may pay "with respect to the gross charges by the Telecommunications retailer to service addresses in a particular municipality for telecommunications, other than wireless telecommunications, originating or received in the municipality..." (35 ILCS 635/15(c)). The State Telecommunication Infrastructure Maintenance Fee Act does not contain a provision for the exemption of holders of E numbers or other non-profit organizations.

The Telecommunications Excise Tax and the State Telecommunication Infrastructure Maintenance Fee are collected and administered by the Illinois Department of Revenue. Your list contains several fees or taxes that are not collected and administered by the Illinois Department of Revenue. For example, Illinois municipalities are authorized to impose a municipal telecommunications tax imposed upon the act or privilege of originating or receiving in such municipality intrastate or interstate telecommunications by a person at a rate not to exceed 5% of the gross charges for such telecommunications purchased at retail by such person. See 65 ILCS 5/8-11-17, 65 ILCS 5/8-11-17(a)(1) and 65 ILCS 5/8-11-17(a)(2).

This municipal telecommunications tax is collected and administered by the municipality that imposed it. Therefore questions regarding it should be addressed to that particular municipality. Similarly, for the Federal, Chicago and other excise taxes or charges about which you are interested, we suggest you contact the Internal Revenue Service, the Chicago Department of Revenue, or the other appropriate government agency that administers the particular tax or charge.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.